IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dhanna Ram & ors. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1044/2006
against the order dated 3-3-2006 passed
by the Addl.l Sessions Judge No.1, Bikaner,
in Criminal Revision No. 15/2006.

...

Date of Order: September 01, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. A.K. Acharya, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 3-3-2006 passed by the Additional Sessions Judge, Bikaner (for short, "the Revisional Court" hereinafter) in Criminal Revision No.15/2006, whereby the revision petition filed by the petitioners against the order dated 16-4-2005 passed by the Judicial Magistrate, Nokha, district Bikaner (for short, "the trial Court" hereinafter), was dismissed.

I have heard learned counsel for the petitioners and the Public Prosecutor for the State. Perused the orders passed by the trial Court as well as the Revisional Court.

By the order dated 16-4-2005, the trial Court framed charges against the petitioners for the offences under Sections 325, 323, 341 read with Section 34 IPC.

It is contended by the learned counsel for the petitioners that the petitioners, being the government employees, on the relevant date of the occurrence, were on duty but both the Courts below failed to consider the plea of alibi.

At the state of taking cognizance and framing the charge, the trial Court is required to see the material placed. Keeping in view the decision in State of Orissa Vs. Debendra Nath Padhi, JT 2004 (10) SC 303, both the Courts below were justified in not considering the plea of alibi at the time of framing the charge against the petitioners. It is open for the petitioners to raise the plea of alibi at the time of making the defence.

The criminal miscellaneous petition has no force and the same is hereby dismissed.

(H.R. PANWAR), J.

mcs